

THE LAW OFFICES OF RANDOLPH H. GOLDBERG
RANDOLPH H. GOLDBERG, ESQ.
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Attorney for Debtor(s)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:

MARLINA AUSTRIA

Debtor(s).

Chapter 13 Proceedings
Case No.: 09-15901-LBR
Trustee: KATHLEEN LEAVITT

Date: JUNE 11, 2009
Time: 3:30 PM

**MOTION TO VALUE COLLATERAL, "STRIP OFF" AND MODIFY RIGHTS
OF WELLS FARGO HOME MORTGAGE PURSUANT TO 11 U.S.C. §506(a) AND §1322**

Comes Now the Debtor, **MARLINA AUSTRIA** (hereinafter the "debtor"), by and
through THE LAW OFFICES OF RANDOLPH H. GOLDBERG, and respectfully moves this
Court pursuant to 11 U.S.C. §506(a), and §1322, and Bankruptcy Rules 3012 and 9014.

STATEMENT OF FACTS

1. Debtor filed the instant Chapter 13, Case Number **09-15901** on **APRIL 17, 2009**.
2. As of the date of filing, debtor owned real property located at **5538 JACOBSFIELD LAS VEGAS, Nevada 89148** (hereinafter the "Subject Property").
3. Debtors have obtained a residential appraisal that places the value of the subject property at **\$130,000.00**.

1 4. At the time of filing the instant petition, the Subject Property was subject to
2 the following liens:

3 **WELLS FARGO HOME MORTGAGE (First Mortgage): \$157,523.00**

4 **WELLS FARGO HOME MORTGAGE (Second Mortgage): \$59,000.00**

5 **WELLS FARGO HOME MORTGAGE (Third Mortgage): \$50,000.00**

6
7 5. Therefore, on the date the instant bankruptcy was filed, no equity existed in
8 the Subject Property above the claims of **WELLS FARGO HOME MORTGAGE**
9

10
11 6. **WELLS FARGO HOME MORTGAGE's** claim was wholly unsecured on the
12 petition date and if the Subject Property was sold at auction **WELLS FARGO**
13 **HOME MORTGAGE** would receive nothing.
14

15 7. Accordingly, the debtor requests that Your Honor find that **WELLS FARGO**
16 **HOME MORTGAGE's** claim is unsecured and should be reclassified as a
17 general unsecured claim to receive pro rata with other general unsecured creditors
18 through the debtor's chapter 13 plan.
19

20 **LEGAL ARGUMENT**

21 In *In re Zimmer*, 313 F.3d 1220 (9th Cir. 2002), the Court stated that a wholly unsecured
22 lien holder's claim can be modified and reclassified as a general unsecured claim pursuant to 11
23 U.S.C. §506(a), despite the anti-modification language in §1322(b)(2). Specifically, the Court
24 held:
25

26 Section 506(a) divides creditors' claims into "secured...claims" and "unsecured
27 claims." Although the conventional interpretation of "secured" might include any
28 claim in which the creditor has a security interest in the debtor's property, §506(a)

1 makes clear that the status of a claim depends on the valuation of the property. An
2 allowed claim of a creditor secured by a lien on property in which the estate has
3 an interest ... is a secured claim to the extent of the value of such creditor's interest
4 in the estate's interest in such property ... and is an unsecured claim to the extent
5 that the value of such creditor's interest ... is less than the amount of such allowed
6 claim. To put it more simply, a claim such as a mortgage is not a "secured claim"
7 to the extent that it exceeds the value of the property that secures it. Under the
8 Bankruptcy Code, "secured claim" is thus a term of art; not every claim that is
9 secured by a lien on property will be considered a "secured claim." Here, it is plain
10 that **WELLS FARGO HOME MORTGAGE's** claim for the repayment of its
11 loan is an unsecured claim, because
12 its deed of trust is junior to the first deed of trust, and the value of the loan secured
13 by the first deed of trust is greater than the value of the house.

14 Accordingly, since **WELLS FARGO HOME MORTGAGE's third** mortgage claim is
15 wholly unsecured (in that there is no extant equity above the first mortgage in the Subject
16 Property), the claim should be reclassified by this Court as a general unsecured claim and share in
17 whatever pro rata distribution is being received. **WELLS FARGO HOME MORTGAGE** should
18 also be stripped of its secured rights under Nevada State Law since no maintainable security
19 interest in the subject property exists.

20 Furthermore, the Debtor is not required to file an adversary proceeding to strip the lien of
21 its secured status. Debtor may "strip off" **WELLS FARGO HOME MORTGAGE's** consensual
22 lien by motion. See *In re Williams*, 166 B.R. 615 (Bankr.E.D.Va.1994), *In re Fuller*, 255 B.R.
23 300(Bankr.W.D.Mich.2000), *In re Hoskins*, 262 B.R. 693 (Bankr.E.D.Mich.2001), *In re King*,
24 290 B.R. 641 (Bankr.C.D.Ill. 2003), *In re Millspaugh*, 302 B.R. 90 (Bankr.D.Idaho 2003), *Dickey*
25 *v. Ben. Fin. (In re Dickey)* 293 B.R. 360 (Bankr.M.D.Pa.2003), *In re Hill*, 304 B.R. 800
26 (Bankr.S.D.Ohio 2003); *In re*
27 *Sadala* 294 B.R. 180 (Bankr.M.D.Fla.2003), *In re Fisher*, 289 B.R. 544 (Bankr.W.D.N.Y.2003),
28 *In re Robert*, 313 B.R. 545 (Bankr.N.D.N.Y.2004), *In re Bennett*, 312 B.R. 843

(Bankr.W.D.Ky.2004).

CONCLUSION

Debtors respectfully request that the court:

1. Determine that the first mortgage on the subject property exceeds the value;
2. Determine that the **WELLS FARGO HOME MORTGAGE** third mortgage claim is a wholly unsecured claim and strip the lien from the subject property pursuant to 11 U.S.C. Section 506(a);
3. Reclassify the secured claim filed by **WELLS FARGO HOME MORTGAGE** as a general unsecured claim to be paid pro rata in the general unsecured pool of Debtor's Chapter 13 Plan.
4. For such other and further relief which the Court deems just and proper.

DATED this 7 of May, 2009.

THE LAW OFFICES OF
RANDOLPH H. GOLDBERG

By: /s/RANDOLPH GOLDBERG/s/
RANDOLPH H. GOLDBERG, ESQ.
4000 S. Eastern Avenue, Suite 200
Las Vegas, Nevada 89119
Attorney for Debtor(s)

C & R Appraisal Company 702-655-3546

Page #1

Appraisal Report**5538 JACOBS FIELD STREET
LAS VEGAS, NV 89148****C & R APPRAISAL COMPANY
702-278-6099****Appraised Value as of: MARCH 25, 2009
\$ 130,000**

Style/Design:	2-STORY	Lot Size:	3,500 Sq.Ft.
Living Area (Sq.Ft.):	1,602	Neighborhood:	FORT APACHE HACIENDA
Total Bedrooms:	3	Total Baths:	2.5
Year Built:	2001	Effective Age:	8
Condition:	ASSUMED AVERAGE	Date of Report:	MARCH 31, 2009

Client: **MARLINA DUSTRIA**
 Address: **5538 JACOBS FIELD STREET**
 City: **LAS VEGAS** State: **NV** Zip: **89148**
 Phone: Fax:
 E-mail:

Name: **TRISTA CATER**
 Designation: **LICENSED RESID. APPRAISER**
 Certification or License #: **01127**
 Expiration Date: **6/30/09** ST: **NV**
 E-mail: **TRISTA5@COX.NET**

Trista Cater
 Appraiser's Signature

Client File #: Appraiser File #: **090335**

The value opinion expressed above is only valid in conjunction with the attached appraisal report. This value opinion may be subject to Hypothetical Conditions and/or Extraordinary Assumptions as indicated in the body of the report. A true and complete copy of this Summary Appraisal Report contains pages.

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RESIDENTIAL APPRAISAL SUMMARY REPORT**SUBJECT PROPERTY IDENTIFICATION**

Property Address: 5538 JACOBS FIELD STREET City: LAS VEGAS
 State: NV Zip Code: 89148 County: CLARK
 Legal Description of Real Property: LOT 74, BLOCK B OF FORT APACHE HACIENDA SOUTH
 Tax Assessor's Parcel #: 163-30-811-007 R.E. Taxes: \$ 1,890.70 Tax Year: 09-10
 Special Assessments: \$ NONE Current Owner of Record: DUSTRIA, MARLINA
 Occupancy: ☒ Owner ☐ Tenant ☐ Vacant Current Occupant (if occupied): DUSTRIA, MARLINA
 Project Type (if applicable): ☐ Planned Unit Development ☐ Condominium ☐ Cooperative ☐
 Home Owners' Association Membership Fees (if applicable): \$ N/A ☐ per year ☐ per month
 Market Area Name: FORT APACHE HACIENDA Map Reference: 62-B4 Census Tract: 4120.0058.21

ASSIGNMENT

The purpose of this appraisal is to develop a Current opinion of Market Value (as defined elsewhere in this report).

Property Rights Appraised: ☒ Fee Simple ☐ Leasehold ☐ Leased Fee ☐ Other (describe)

Intended Use: THE INTENDED USE IS FOR THE COURT TO EVALUATE THE PROPERTY FOR A BANKRUPTCY FILING.

Intended User(s) (by name or type): THE OWNER AND THE BANKRUPTCY ATTORNEY/COURT.

Client: MARLINA DUSTRIA

Address: 5538 JACOBS FIELD STREET, LAS VEGAS, NV 89148

Appraiser: TRISTA CATER

Address: LAS VEGAS

MARKET AREA DESCRIPTION

Location: ☐ Urban ☒ Suburban ☐ Rural Built Up: ☒ Over 75% ☐ 25-75% ☐ Under 25%
 Growth Rate: ☐ Rapid ☒ Stable ☐ Slow Property Values: ☐ Increasing ☐ Stable ☒ Declining
 Demand/Supply: ☐ Shortage ☒ In Balance ☐ Over Supply Marketing Time: ☐ Under 3 Mos. ☒ 3-6 Mos. ☐ Over 6 Mos.
 Typical One-Unit Housing Ranges: Price: (\$) Low 95 High 575 Predominant 140-175
 Age: (yrs.) Low NEW High 20 Predominant 5-10
 Present Land Use: One-Unit: 75 % 2-4 Unit: 0 % Multi-Unit: 10 % Comm'l: 10 % Vacant 5 %
 Change in Land Use: ☒ Not Likely ☐ Likely * ☐ Is Changing * * To:

Market Area Comments:

Sales have decreased in the last year while inventory continues to rise. Foreclosures and short sales are becoming more common in the current market. Sellers must be realistic when pricing properties and be willing to market aggressively. Listing and pending sales are emphasized and only the most current closed sales are considered reliable in this changing market.

SALE / TRANSFER / LISTING HISTORY OF SUBJECT PROPERTY

My research: ☐ Did ☒ Did not reveal any prior sales or transfers of the subject property for the three years prior to the Effective Date of this appraisal. Data Source(s): MLS/COUNTY RECORDS

1st Prior Sale / Transfer

2nd Prior Sale / Transfer

3rd Prior Sale / Transfer

Date of Prior Sale / Transfer:

NONE

Price of Prior Sale / Transfer:

Source(s) of Prior Sale / Transfer Data:

COUNTY RECORDS

Analysis of sale / transfer history, any current agreements of sale or listing, and listing history (if relevant):

THERE WERE NO TRANSFERS OF COMPARABLE PROPERTYS WITHIN 12 MONTHS. THERE WERE NO TRANSFERS OF THE SUBJECT PROPERTY WITHIN 36 MONTHS.

Client: MARLINA DUSTRIA

Client File No.:

Appraiser File No.: 090335



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RESIDENTIAL APPRAISAL SUMMARY REPORT

SITE DESCRIPTION

Dimensions: 35 X 100 Site Area: 3,500 Sq.Ft.
 Zoning Classification: R-2 Zoning Description: SINGLE FAMILY
 Zoning Compliance: ☒ Legal ☐ Legal Non-Conforming (Grandfathered) ☐ Illegal ☐ No Zoning Regulations
 Deed Restrictions: Are Covenants, Conditions, & Restrictions (CC&Rs) applicable? ☐ Yes ☒ No ☐ Unknown
 Have the documents been reviewed? ☐ Yes ☐ No ☒ N/A Ground Rent (if applicable) \$ /
 Comments:
 Highest & Best Use, as improved, is the: ☒ Present use, or ☐ Other use (explain)

Characteristics: Topography: BUILT-UP PAD Size: TYPICAL FOR AREA
 Shape: RECTANGULAR Drainage: APPEARS ADEQUATE
 View: RESIDENTIAL Landscaping: AVERAGE

Other features: ☒ Inside Lot ☐ Corner Lot ☐ Cul de Sac ☐ Underground Utilities ☐

Utilities:	Public	Other	Provider/Description	Off-site Improvements:	Type	Public	Private
Electricity:	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Street:	ASPHALT	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Gas:	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Curb/Gutter:	CONCRETE	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Water:	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Sidewalk:	CONCRETE	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sanitary Sewer:	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Alley:	NONE/TYPICAL	<input type="checkbox"/>	<input type="checkbox"/>

Is the property or the improvements located in a FEMA Special Flood Hazard Area? ☐ Yes ☒ No
 FEMA Flood Zone: X500 FEMA Map # 32003C 2535E FEMA Map Date: 9/02

Site Comments:

This site is typical of the neighborhood in terms of size and appeal, with no readily apparent easements or encroachments. In short, a conforming site that provides a suitable setting.

DESCRIPTION OF THE IMPROVEMENTS

General Description: # of Units: 1 ☐ + Accessory Unit # of Stories: 2 Design (Style): 2-STORY
 Type: ☒ Detached ☐ Attached ☐ Status: ☒ Existing ☐ Proposed ☐ Under Construction
 Actual Age (years): 8 Effective Age (years): 8 Year Built: 2001

Exterior Description:

Foundation: CONCRETE Exterior Walls: STUCCO
 Roof Surface: TILE Gutters & Downspouts: NONE
 Window Type(s): DUAL PANE Storm / Screens: YES

Heating System: FAU

Cooling System: CENTRAL

Car Storage: ☐ None ☒ Garage ☐ Carport ☒ Driveway (Surface: CONCRETE) Total # of Cars: 2

Livable area above grade contains: 6 Rooms, 3 Bedrooms, 2.5 Bath(s), and 1,602 Sq.Ft. of GLA

Describe Additional Features and Improvements:

THE PROPERTY IS ASSUMED TO BE IN OVERALL AVERAGE CONDITION. NO REPAIRS, RENOVATIONS OR REMODELING NEEDED.

Client: MARLINA DUSTRIA

Client File No.:

Appraiser File No.: 090335



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RESIDENTIAL APPRAISAL SUMMARY REPORT

SALES COMPARISON APPROACH TO VALUE

For the Sales Comparison Approach, the appraiser selects comparable sales that they consider the best matches to the subject in terms of physical characteristics, physical proximity, and time of sale. The appraiser then makes adjustments to the known sale price of each comparable sale to account for differences that are recognized by the market. For example, if the subject has a single bathroom but a comparable has 2, the comparable's sale price would be reduced by the attributable value given to the extra bathroom based on the market's reaction. Likewise, if a comparable sale has a smaller square footage than the subject, its sale price would be adjusted upward in the same manner. By weighting and reconciling these adjusted sales prices together, an opinion of value for the subject can be determined.

FEATURE	SUBJECT	COMPARABLE SALE # 1		COMPARABLE SALE # 2		COMPARABLE SALE # 3	
Address	5538 JACOBS FIELD STREET LAS VEGAS, NV 89148	5616 DAWN FALLS STREET APN: 163-30-416-021		5618 MOCCASIN POINT ST. APN: 163-30-414-098		10048 TITTLETON AVENUE APN: 163-30-414-036	
Proximity to Subject		0.60 miles W		0.70 miles W		0.76 miles W	
Sale Price	\$ N/A	\$ 131,000		\$ 120,000		\$ 131,500	
Sale Price / GLA	\$ /Sq.Ft.	\$ 81.82/Sq.Ft.		\$ 78.38/Sq.Ft.		\$ 85.89/Sq.Ft.	
Data Source(s)	EXT.INS/TAXSTR	MLS/COUNTY RECORDS		MLS/COUNTY RECORDS		MLS/COUNTY RECORDS	
ADJUSTMENT ITEMS	DESCRIPTION	DESCRIPTION	+ (-) \$ Adjust	DESCRIPTION	+ (-) \$ Adjust	DESCRIPTION	+ (-) \$ Adjust
Sales or Financing	N/A	CASH		CASH		CASH	
Concessions	N/A						
Date of Sale / Time	INSP. 3/09	COE 12/26/09		COE 1/15/09		COE 3/13/09	
Rights Appraised	FEE SIMPLE	FEE SIMPLE		FEE SIMPLE		FEE SIMPLE	
Location	AVERAGE	AVERAGE		AVERAGE		AVERAGE	
Site	3,500 Sq.Ft.	2,614 SQ.FT.		2,614 SQ.FT.		2,178 SQ.FT.	
View	RESIDENTIAL	RESIDENTIAL		RESIDENTIAL		RESIDENTIAL	
Design (Style)	2-STORY	2-STORY		2-STORY		2-STORY	
Quality of Construction	AVERAGE	AVERAGE		AVERAGE		AVERAGE	
Age	8	4		4		4	
Condition	ASSUMED AVG.	AVERAGE		AVERAGE		AVERAGE	
Above Grade	Total Bdrms Baths	Total Bdrms Baths		Total Bdrms Baths		Total Bdrms Baths	
Room Count	6 3 2.5	6 3 3	-2,000	6 4 2.5		6 4 2.5	
Gross Living Area	1,602 Sq.Ft.	1,601 Sq.Ft.		1,531 Sq.Ft.	+1,500	1,531 Sq.Ft.	+1,500
Basement Total Area	N/A	N/A		N/A		N/A	
Basement Finish Area	N/A	N/A		N/A		N/A	
Functional Utility	AVERAGE	AVERAGE		AVERAGE		AVERAGE	
Heating / Cooling	FAU/CENTRAL	FAU/CENTRAL		FAU/CENTRAL		FAU/CENTRAL	
Energy Efficient Items	STANDARD	STANDARD		STANDARD		STANDARD	
Garage / Carport	2-GARAGE	2-GARAGE		2-GARAGE		2-GARAGE	
Porch / Patio / Deck	PORCH,L/S	PORCH,L/S		PORCH,L/S		PORCH,L/S	
Net Adjustment (Total)		<input type="checkbox"/> + <input checked="" type="checkbox"/> - \$ -2,000		<input checked="" type="checkbox"/> + <input type="checkbox"/> - \$ 1,500		<input checked="" type="checkbox"/> + <input type="checkbox"/> - \$ 1,500	
Adjusted Sale Price		Net 1.5 %		Net 1.3 %		Net 1.1 %	
of Comparables		Gross 1.5 % \$ 129,000		Gross 1.3 % \$ 121,500		Gross 1.1 % \$ 133,000	

Comments on the Sales Comparison Approach:

ALL SALES ARE TWO-STORY HOMES LOCATED IN THE SUBJECT SUBMARKET. SALE 1 IS SUPERIOR TO SUBJECT DUE TO NUMBER OF BATHS. SALES 2 AND 3 ARE INFERIOR DUE TO GROSS LIVING AREA. SEE ATTACHED ADDENDA...

Appraiser's Indicated Value by the Sales Comparison Approach: \$ 130,000

Client: MARLINA DUSTRIA

Client File No.:

Appraiser File No.: 090335



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RESIDENTIAL APPRAISAL SUMMARY REPORT

RECONCILIATION

Final Reconciliation of the Approaches to Value:

THE SALES COMPARISON APPROACH BEST INDICATES MARKET VALUE AS DESCRIBED IN THE REPORT.

This appraisal is made ☒ "as is"; ☐ subject to completion per plans and specifications on the basis of a Hypothetical Condition that the improvements have been completed; ☐ subject to the following repairs or alterations on the basis of a Hypothetical Condition that the repairs or alterations have been completed; ☐ subject to the following required inspection(s) based on the Extraordinary Assumption that the following condition or deficiency does not require alteration or repair.

Subject is marketable "as is" and no repairs or alterations are required. See attached addenda.

☐ This report is also subject to other Hypothetical Conditions or Extraordinary Assumptions as specified elsewhere in this report.

ATTACHMENTS

A true and complete copy of this report contains _____ pages, including all exhibits which are considered an integral part of the report. This appraisal report may not be properly understood without reference to the information contained in the complete report. Attached Exhibits:

- | | | | |
|--------------------------------------------------------|---------------------------------------------------------|------------------------------------------------------|--------------------------------------------------------|
| <input checked="" type="checkbox"/> Scope of Work | <input checked="" type="checkbox"/> Limiting Conditions | <input checked="" type="checkbox"/> Certifications | <input checked="" type="checkbox"/> Narrative Addendum |
| <input checked="" type="checkbox"/> Photograph Addenda | <input type="checkbox"/> Sketch Addendum | <input checked="" type="checkbox"/> Map Addenda | <input type="checkbox"/> Flood Addendum |
| <input type="checkbox"/> Additional Sales | <input type="checkbox"/> Cost Addendum | <input type="checkbox"/> Manufactured House Addendum | <input type="checkbox"/> Hypothetical Conditions |
| <input type="checkbox"/> Extraordinary Assumptions | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

OPINION OF VALUE

This Opinion of Value may be subject to other Hypothetical Conditions and / or Extraordinary Assumptions, if so indicated above. Based on the degree of inspection of the subject property as indicated below; the defined Scope of Work for this appraisal assignment; the attached Statement of Assumptions and Limiting Conditions; and the attached Appraiser's Certifications, my (our) Current Opinion of the Market Value (or value range), as defined elsewhere in this report, of the real property that is the subject of this report is: \$ 130,000, as of: MARCH 25, 2009, which is both the Inspection Date and the Effective Date of this appraisal.

SIGNATURES

APPRAISER

SUPERVISORY APPRAISER (if required)
or CO-APPRAISER (if applicable)

Trista CATER

Appraiser Name: TRISTA CATER
Company: C & R APPRAISAL COMPANY
Phone: 702-278-6099 Fax:

E-mail: TRISTA5@COX.NET

Date of Report (Signature): MARCH 31, 2009

License or Certification #: 01127

Designation: LICENSED RESID. APPRAISER

Expiration Date of License or Certification: 6/30/09

Inspection of Subject: ☐ Interior & Exterior ☒ Exterior Only ☐ None

Date of Inspection: MARCH 25, 2009

Client: MARLINA DUSTRIA

Client File No.:

Supervisory or
Co-Appraiser Name:

Company:

Phone:

Fax:

E-mail:

Date of Report (Signature):

License or Certification #:

State:

Designation:

Expiration Date of License or Certification:

Inspection of Subject: ☐ Interior & Exterior ☐ Exterior Only ☐ None

Date of Inspection:

Appraiser File No.: 090335

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ASSUMPTIONS & LIMITING CONDITIONS

SUBJECT PROPERTY

Property Address:	5538 JACOBS FIELD STREET	City:	LAS VEGAS
State:	NV	Zip Code:	89148
		County:	CLARK

STATEMENT OF ASSUMPTIONS & LIMITING CONDITIONS

- The appraiser will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it. The appraiser assumes that the title is good and marketable and, therefore, will not render any opinions about the title. The property is appraised on the basis of it being under responsible ownership.
- The appraiser may have provided a sketch in the appraisal report to show approximate dimensions of the improvements, and any such sketch is included only to assist the reader of the report in visualizing the property and understanding the appraiser's determination of its size. Unless otherwise indicated, a Land Survey was not performed.
- If so indicated, the appraiser has examined the available flood maps that are provided by the Federal Emergency Management Agency (or other data sources) and has noted in the appraisal report whether the subject site is located in an identified Special Flood Hazard Area. Because the appraiser is not a surveyor, he or she makes no guarantees, express or implied, regarding this determination.
- The appraiser will not give testimony or appear in court because he or she made an appraisal of the property in question, unless specific arrangements to do so have been made beforehand.
- The appraiser has noted in the appraisal report any adverse conditions (including, but not limited to, needed repairs, depreciation, the presence of hazardous wastes, toxic substances, etc.) observed during the inspection of the subject property, or that he or she became aware of during the normal research involved in performing the appraisal. Unless otherwise stated in the appraisal report, the appraiser has no knowledge of any hidden or unapparent conditions of the property, or adverse environmental conditions (including, but not limited to, the presence of hazardous wastes, toxic substances, etc.) that would make the property more or less valuable, and has assumed that there are no such conditions and makes no guarantees or warranties, express or implied, regarding the condition of the property. The appraiser will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. Because the appraiser is not an expert in the field of environmental hazards, the appraisal report must not be considered as an environmental assessment of the property.
- The appraiser obtained the information, estimates, and opinions that were expressed in the appraisal report from sources that he or she considers to be reliable and believes them to be true and correct. The appraiser does not assume responsibility for the accuracy of such items that were furnished by other parties.
- The appraiser will not disclose the contents of the appraisal report except as provided for in the Uniform Standards of Professional Appraisal Practice, and any applicable federal, state or local laws.
- If this appraisal is indicated as subject to satisfactory completion, repairs, or alterations, the appraiser has based his or her appraisal report and valuation conclusion on the assumption that completion of the improvements will be performed in a workmanlike manner.
- An appraiser's client is the party (or parties) who engage an appraiser in a specific assignment. Any other party acquiring this report from the client does not become a party to the appraiser-client relationship. Any persons receiving this appraisal report because of disclosure requirements applicable to the appraiser's client do not become intended users of this report unless specifically identified by the client at the time of the assignment.
- The appraiser's written consent and approval must be obtained before this appraisal report can be conveyed by anyone to the public, through advertising, public relations, news, sales, or by means of any other media, or by its inclusion in a private or public database.
- An appraisal of real property is not a 'home inspection' and should not be construed as such. As part of the valuation process, the appraiser performs a non-invasive visual inventory that is not intended to reveal defects or detrimental conditions that are not readily apparent. The presence of such conditions or defects could adversely affect the appraiser's opinion of value. Clients with concerns about such potential negative factors are encouraged to engage the appropriate type of expert to investigate.
- In developing this appraisal, the appraiser has incorporated only the Sales Comparison approach. The appraiser has excluded the Cost and Income approaches. The appraiser has determined that this appraisal process is not so limited that the results of the assignment are no longer credible.

Client: MARLINA DUSTRIA

Client File No.:

Appraiser File No.: 090335



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DEFINITIONS & SCOPE OF WORK

SUBJECT PROPERTY

Property Address:	5538 JACOBS FIELD STREET	City:	LAS VEGAS
State:	NV	Zip Code:	89148
		County:	CLARK

DEFINITION OF MARKET VALUE *:

Market value means the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated;
2. Both parties are well informed or well advised and acting in what they consider their own best interests;
3. A reasonable time is allowed for exposure in the open market;
4. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

* This definition is from regulations published by federal regulatory agencies pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) of 1989 between July 5, 1990, and August 24, 1990, by the Federal Reserve System (FRS), National Credit Union Administration (NCUA), Federal Deposit Insurance Corporation (FDIC), the Office of Thrift Supervision (OTS), and the Office of Comptroller of the Currency (OCC). This definition is also referenced in regulations jointly published by the OCC, OTS, FRS, and FDIC on June 7, 1994, and in the Interagency Appraisal and Evaluation Guidelines, dated October 27, 1994.

The Scope of Work is the type and extent of research and analyses performed in an appraisal assignment that is required to produce credible assignment results, given the nature of the appraisal problem, the specific requirements of the intended user(s) and the intended use of the appraisal report. Reliance upon this report, regardless of how acquired, by any party or for any use, other than those specified in this report by the Appraiser, is prohibited. The Opinion of Value that is the conclusion of this report is credible only within the context of the Scope of Work, Effective Date, the Date of Report, the Intended User(s), the Intended Use, the stated Assumptions and Limiting Conditions, any Hypothetical Conditions and/or Extraordinary Assumptions, and the Type of Value, as defined herein. The appraiser, appraisal firm, and related parties assume no obligation, liability, or accountability, and will not be responsible for any unauthorized use of this report or its conclusions.

Additional Comments (Scope of Work, Extraordinary Assumptions, Hypothetical Conditions, etc.):

Client: MARLINA DUSTRIA

Client File No.:

Appraiser File No.: 090335



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CERTIFICATIONS

SUBJECT PROPERTY

Property Address:	5538 JACOBS FIELD STREET	City:	LAS VEGAS
State:	NV	Zip Code:	89148
		County:	CLARK

APPRAISER'S CERTIFICATION

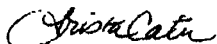
I certify that, to the best of my knowledge and belief:

- The statements of fact contained in this report are true and correct.
- The credibility of this report, for the stated use by the stated user(s), of the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice that were in effect at the time this report was prepared.
- I did not base, either partially or completely, my analysis and/or the opinion of value in the appraisal report on the race, color, religion, sex, handicap, familial status, or national origin of either the prospective owners or occupants of the subject property, or of the present owners or occupants of the properties in the vicinity of the subject property.
- Unless otherwise indicated, I have made a personal inspection of the property that is the subject of this report.
- Unless otherwise indicated, no one provided significant real property appraisal assistance to the person(s) signing this certification.

Additional Certifications:

SIGNATURES**APPRAISER**

**SUPERVISORY APPRAISER (if required)
or CO-APPRAISER (if applicable)**



Appraiser Name: TRISTA CATER
Company: C & R APPRAISAL COMPANY
Phone: 702-278-6099 Fax:
E-mail: TRISTA5@COX.NET

Date of Report (Signature): MARCH 31, 2009

License or Certification #: 01127

State: NV

Designation: LICENSED RESID. APPRAISER

Expiration Date of License or Certification: 6/30/09

Inspection of Subject: ☐ Interior & Exterior ☒ Exterior Only ☐ None

Date of Inspection: MARCH 25, 2009

Client:

Client File No.:

Supervisory or

Co-Appraiser Name:

Company:

Phone:

Fax:

E-mail:

Date of Report (Signature):

License or Certification #:

State:

Designation:

Expiration Date of License or Certification:

Inspection of Subject: ☐ Interior & Exterior ☐ Exterior Only ☐ None

Date of Inspection:

Appraiser File No.: 090335



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Photograph Addendum

Client	MARLINA DUSTRIA				
Property Address	5638 JACOBS FIELD STREET				
City	LAS VEGAS	County	CLARK	State	NV Zip Code 89148
Client	MARLINA DUSTRIA				



FRONT VIEW OF SUBJECT PROPERTY



STREET VIEW

Comparable Photo Page

Client	MARLINA DUSTRIA			
Property Address	5538 JACOBS FIELD STREET			
City	LAS VEGAS	County	CLARK	State NV Zip Code 89148
Client	MARLINA DUSTRIA			



Comparable 1
5616 DAWN FALLS STREET



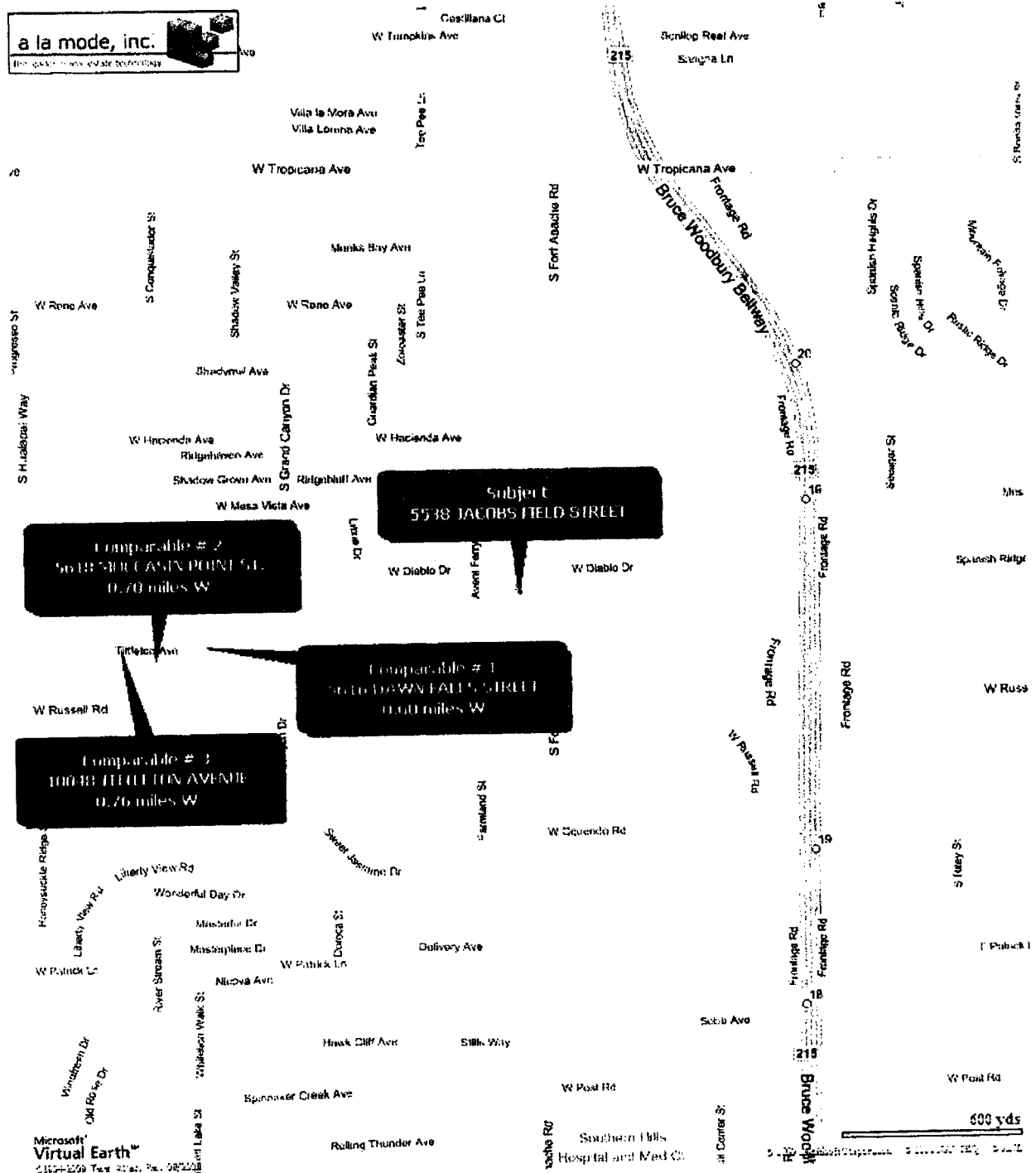
Comparable 2
5618 MOCCASIN POINT ST.



Comparable 3
10048 TITTLETON AVENUE

Location Map

Client	MARLINA DUSTRIA			
Property Address	5538 JACOBS FIELD STREET			
City	LAS VEGAS	County	CLARK	State NV Zip Code 89148
Client	MARLINA DUSTRIA			



LICENSE

APPRAISER LICENSE

STAFF OF NEW YORK DEPARTMENT OF BUSINESS AND INDUSTRY

201 1124 1131 1138 1145 1152 1159 1166 1173 1180 1187 1194 1201 1208 1215 1222 1229 1236 1243 1250 1257 1264 1271 1278 1285 1292 1299 1306 1313 1320 1327 1334 1341 1348 1355 1362 1369 1376 1383 1390 1397 1404 1411 1418 1425 1432 1439 1446 1453 1460 1467 1474 1481 1488 1495 1502 1509 1516 1523 1530 1537 1544 1551 1558 1565 1572 1579 1586 1593 1600 1607 1614 1621 1628 1635 1642 1649 1656 1663 1670 1677 1684 1691 1698 1705 1712 1719 1726 1733 1740 1747 1754 1761 1768 1775 1782 1789 1796 1803 1810 1817 1824 1831 1838 1845 1852 1859 1866 1873 1880 1887 1894 1901 1908 1915 1922 1929 1936 1943 1950 1957 1964 1971 1978 1985 1992 1999 2006 2013 2020 2027 2034 2041 2048 2055 2062 2069 2076 2083 2090 2097 2104 2111 2118 2125 2132 2139 2146 2153 2160 2167 2174 2181 2188 2195 2202 2209 2216 2223 2230 2237 2244 2251 2258 2265 2272 2279 2286 2293 2300 2307 2314 2321 2328 2335 2342 2349 2356 2363 2370 2377 2384 2391 2398 2405 2412 2419 2426 2433 2440 2447 2454 2461 2468 2475 2482 2489 2496 2503 2510 2517 2524 2531 2538 2545 2552 2559 2566 2573 2580 2587 2594 2601 2608 2615 2622 2629 2636 2643 2650 2657 2664 2671 2678 2685 2692 2699 2706 2713 2720 2727 2734 2741 2748 2755 2762 2769 2776 2783 2790 2797 2804 2811 2818 2825 2832 2839 2846 2853 2860 2867 2874 2881 2888 2895 2902 2909 2916 2923 2930 2937 2944 2951 2958 2965 2972 2979 2986 2993 3000 3007 3014 3021 3028 3035 3042 3049 3056 3063 3070 3077 3084 3091 3098 3105 3112 3119 3126 3133 3140 3147 3154 3161 3168 3175 3182 3189 3196 3203 3210 3217 3224 3231 3238 3245 3252 3259 3266 3273 3280 3287 3294 3301 3308 3315 3322 3329 3336 3343 3350 3357 3364 3371 3378 3385 3392 3399 3406 3413 3420 3427 3434 3441 3448 3455 3462 3469 3476 3483 3490 3497 3504 3511 3518 3525 3532 3539 3546 3553 3560 3567 3574 3581 3588 3595 3602 3609 3616 3623 3630 3637 3644 3651 3658 3665 3672 3679 3686 3693 3700 3707 3714 3721 3728 3735 3742 3749 3756 3763 3770 3777 3784 3791 3798 3805 3812 3819 3826 3833 3840 3847 3854 3861 3868 3875 3882 3889 3896 3903 3910 3917 3924 3931 3938 3945 3952 3959 3966 3973 3980 3987 3994 4001 4008 4015 4022 4029 4036 4043 4050 4057 4064 4071 4078 4085 4092 4099 4106 4113 4120 4127 4134 4141 4148 4155 4162 4169 4176 4183 4190 4197 4204 4211 4218 4225 4232 4239 4246 4253 4260 4267 4274 4281 4288 4295 4302 4309 4316 4323 4330 4337 4344 4351 4358 4365 4372 4379 4386 4393 4400 4407 4414 4421 4428 4435 4442 4449 4456 4463 4470 4477 4484 4491 4498 4505 4512 4519 4526 4533 4540 4547 4554 4561 4568 4575 4582 4589 4596 4603 4610 4617 4624 4631 4638 4645 4652 4659 4666 4673 4680 4687 4694 4701 4708 4715 4722 4729 4736 4743 4750 4757 4764 4771 4778 4785 4792 4799 4806 4813 4820 4827 4834 4841 4848 4855 4862 4869 4876 4883 4890 4897 4904 4911 4918 4925 4932 4939 4946 4953 4960 4967 4974 4981 4988 4995 5002 5009 5016 5023 5030 5037 5044 5051 5058 5065 5072 5079 5086 5093 5100 5107 5114 5121 5128 5135 5142 5149 5156 5163 5170 5177 5184 5191 5198 5205 5212 5219 5226 5233 5240 5247 5254 5261 5268 5275 5282 5289 5296 5303 5310 5317 5324 5331 5338 5345 5352 5359 5366 5373 5380 5387 5394 5401 5408 5415 5422 5429 5436 5443 5450 5457 5464 5471 5478 5485 5492 5499 5506 5513 5520 5527 5534 5541 5548 5555 5562 5569 5576 5583 5590 5597 5604 5611 5618 5625 5632 5639 5646 5653 5660 5667 5674 5681 5688 5695 5702 5709 5716 5723 5730 5737 5744 5751 5758 5765 5772 5779 5786 5793 5800 5807 5814 5821 5828 5835 5842 5849 5856 5863 5870 5877 5884 5891 5898 5905 5912 5919 5926 5933 5940 5947 5954 5961 5968 5975 5982 5989 5996 6003 6010 6017 6024 6031 6038 6045 6052 6059 6066 6073 6080 6087 6094 6101 6108 6115 6122 6129 6136 6143 6150 6157 6164 6171 6178 6185 6192 6199 6206 6213 6220 6227 6234 6241 6248 6255 6262 6269 6276 6283 6290 6297 6304 6311 6318 6325 6332 6339 6346 6353 6360 6367 6374 6381 6388 6395 6402 6409 6416 6423 6430 6437 6444 6451 6458 6465 6472 6479 6486 6493 6500 6507 6514 6521 6528 6535 6542 6549 6556 6563 6570 6577 6584 6591 6598 6605 6612 6619 6626 6633 6640 6647 6654 6661 6668 6675 6682 6689 6696 6703 6710 6717 6724 6731 6738 6745 6752 6759 6766 6773 6780 6787 6794 6801 6808 6815 6822 6829 6836 6843

REVISIONS

801-166-791-62-131

Introduction

14-00000-100000

Is duly authorized to act as a Local Office Sales Agent, effective from the issue date to the expiration date at the business address stated herein, unless the license is sooner revoked, cancelled, withdrawn, or invalidated.

Exhibit Date: July 17, 2007

Upper Back: Little or no pain

[illegible]

FOR **FEDERAL BUREAU OF INVESTIGATION** **RECEIVED**

1. 111 1 1701K(1)

